

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	File No.: EB-10-TP-0108
Thomas L. Morey	)	
	)	NAL/Acct. No.: 201132700006
St. Petersburg, Florida	)	
	)	FRN No.: 0020835732
	)	

**FORFEITURE ORDER**

**Adopted:** October 18, 2011

**Released:** October 18, 2011

By the Regional Director, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of two hundred fifty dollars (\$250) to Thomas L. Morey (“Mr. Morey”) for willful and repeated violation of section 301 of the Communications Act of 1934, as amended (“Act”).<sup>1</sup> The noted violations involved Mr. Morey’s operation of an unlicensed radio transmitter on the frequency 88.3 MHz in St. Petersburg, Florida.

**II. BACKGROUND**

2. On May 5, 2011, the Enforcement Bureau’s Tampa Office (“Tampa Office”) issued a Notice of Apparent Liability for Forfeiture (“NAL”)<sup>2</sup> to Mr. Morey for his operation of an unlicensed radio transmitter without the requisite Commission authorization. As discussed in detail in the NAL,<sup>3</sup> agents from the Tampa Office determined that Mr. Morey operated an unlicensed radio station on the frequency 88.3 MHz from his residence for two to three weeks prior to an inspection of his station.<sup>4</sup> In view of the record evidence, the NAL proposed a forfeiture of \$10,000 against Mr. Morey for violation of section 301 of the Act.<sup>5</sup> Mr. Morey submitted a response to the NAL requesting cancellation of the proposed forfeiture, asserting that he “is in no position to be able to pay” the forfeiture.<sup>6</sup>

**III. DISCUSSION**

3. The proposed forfeiture amount in this case was assessed in accordance with section 503(b) of the Act,<sup>7</sup> section 1.80 of the Commission’s rules,<sup>8</sup> and the *Forfeiture Policy Statement*.<sup>9</sup> In

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<sup>1</sup> 47 U.S.C. § 301.

<sup>2</sup> *Thomas L. Morey*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 6665 (Enf. Bur. 2011).

<sup>3</sup> The facts of the NAL are incorporated herein by reference.

<sup>4</sup> NAL at 6665.

<sup>5</sup> NAL at 6666.

<sup>6</sup> Letter from Joe Episcopo, Esq., attorney for Mr. Morey, to Tampa Office, dated June 1, 2011 at 1.

<sup>7</sup> 47 U.S.C. § 503(b).

examining Mr. Morey's response, section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>10</sup> As discussed below, we have considered Mr. Morey's response in light of these statutory factors and we find that a reduction in the forfeiture is warranted based solely on his documented inability to pay.

4. As set forth in the *NAL*, agents from the Tampa Office determined that Mr. Morey operated an unlicensed radio station on the frequency 88.3 MHz on more than one day. Mr. Morey does not deny any of the facts set forth in the *NAL*. Therefore, we find that Mr. Morey willfully and repeatedly violated section 301 of the Act by operating an unlicensed radio transmitter. With regard to an individual's or entity's inability to pay claim, the Commission has determined that, in general, gross revenues are the best indicator of an ability to pay a forfeiture.<sup>11</sup> Having reviewed Mr. Morey's submitted documentation, we conclude that the forfeiture should be reduced to \$250, an amount within the range determined by the Bureau to be affordable.

#### IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, Thomas L. Morey **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of two hundred fifty dollars (\$250) for violations of section 301 of the Act.<sup>12</sup>

6. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for enforcement pursuant to section 504(a) of the Act.<sup>13</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk with any questions regarding payment procedures at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Mr. Morey shall also send electronic

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<sup>8</sup> 47 C.F.R. § 1.80.

<sup>9</sup> *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("Forfeiture Policy Statement").

<sup>10</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>11</sup> See *PJB Communications of Virginia, Inc.*, Forfeiture Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

<sup>12</sup> 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 95.140, 95.411.

<sup>13</sup> 47 U.S.C. § 504(a).

notification to SCR-Response@fcc.gov on the date said payment is made.

7. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Thomas L. Morey at his address of record and to his attorney, Joe Episcopo, Esq., at 1319 W. Fletcher Avenue, Tampa, FL 33612.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton  
Regional Director, South Central Region  
Enforcement Bureau